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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/807,745

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EXAMINER

MALLARI, PATRICIA C

ART UNIT

PAPER NUMBER

3735

MAIL DATE

DELIVERY MODE

09/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/807,745

Applicant(s)

GOLDSTEIN, JAMES A.

Examiner

Patricia C. Mallari

Art Unit

3735

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 21-25 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,9,10,22 and 23 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-8,12-16,21,24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

This is a final Office action. Any new grounds of rejection were necessitated by the applicants' amendments to the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 6,336,044 to Ghiassi et al. Ghiassi teaches a support apparatus for supporting at least a portion of a patient's limb during a procedure. The apparatus comprises a support 10 having an upward facing surface adapted to receive at least a portion of the patient's limb to support the limb during the procedure to substantially eliminate movement of the limb regardless of movement of other portions of the patient (see entire document, especially figs. 1, 2, 8; col. 3, lines 4-61; col. 6, lines 5-16 of Ghiassi). A sensor 34, 36, 61, 90 is mounted on the support such that the sensor is at least partially attached to the support without an adhesive and the sensor is adapted to communicate with the limb for measuring the physiological parameter when the limb is supported by the support (see entire document, especially fig. 1, 5, 8; col. 3, lines 31-46; col. 3, line 62-col. 4, line 45; col. 6, lines 17-30 of Ghiassi).

Regarding claim 4, the sensor is mounted on the support generally adjacent the surface so the sensor is adapted to communicate with a portion of the patient's limb in contact with the surface during the procedure for measuring the physiological parameter of the parameter on the patient on the limb (see entire document, especially figs. 1, 2, 5, and 8 of Ghiassi).

Regarding claims 5 and 7, cuff 36 is a restraint member on the support which is capable of restraining movement of at least a portion of the patient's limb during the procedure (see entire document, especially figs. 1 and 8 of Ghiassi). With further regard to claim 7, the restraint 36 includes a sensor 61 adapted to communicate with the patient's limb for measuring a physiological parameter of the patient on the limb when the limb is received by the restraint (see entire document, especially fig. 5; col. 4, lines 9-51; col. 5, lines 49-60 of Ghiassi).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 8, 12, 13, 15, 21, 24, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghiassi, as applied to claims 1, 4, 5, and 7 above, and further in view of US Patent No. 6,589,171 to Keirsblick. Ghiassi, as modified, lacks the sensor being one of a temperature, pulse, blood pressure, EKG, or oxygen saturation sensor,

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but does state that the sensor may be an analyte sensor. Keirsblick teaches a sensor in the form of a glove 200, wherein the sensor may comprise a blood oxygen sensor, a blood oxygen sensor being an analyte measurement means, or a heart rate (pulse) sensor (see entire document, especially fig. 10; col. 5, lines 8-32; col. 6, lines 25-38 of Keirsblick). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the sensor of Keirsblick instead of the glucose measurement means of Ghiassi, since Ghiassi teaches using an analyte sensor means, and it would merely be the substitution of one analyte sensing means for another to yield the predictable result of an apparatus having an analyte sensing means. Alternatively, it would have been obvious to use the sensor of Keirsblick in place of the finger measurement unit of Ghiassi, since Ghiassi discloses coordinating the body fat measurement with other parameters, such as heart rate (see entire document, especially col. 6, lines 18-35 of Ghiassi) and Keirsblick teaches a means for doing so, to yield the predictable result of a body fat measurement apparatus also having a heart rate measuring means. The combination would result in the glove of Keirsblick being mounted to the support means 93 instead of the finger measurement unit of Ghiassi).

Regarding claims 12, 13, and 15 the restraint comprises a glove adapted to receive at least a portion of a hand of the patient's limb (see entirety of both documents, especially fig. 10 of Keirsblick). With further regard to claims 13 and 15, the glove comprises a first portion adapted to receive at least a portion of a first digit of the hand and a second portion separate from the first adapted to receive at least a portion of a second digit of the hand (see entire document, especially fig. 10 of Keirsblick).

Regarding claim 21, the sensor 202 is mounted on the support and includes a measuring region facing away from the support surface for engaging the patient's limb when received by the support for measuring a physiological parameter of the patient (see entirety of both documents, especially fig. 8 of Ghiassi; fig. 10, col. 5, lines 8-32 of Keirsblick).

Regarding claim 24, a restraint 26 on the support restrains movement of at least a portion of the limb during the procedure (see entirety of documents, especially figs. 1, 8 of Ghiassi).

Regarding claim 25, the sensor is a pulse sensor (see entirety of both documents, especially col. 6, lines 17-23; col. 6, lines 26-35 of Keirsblick).

Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghiassi in view of Keirsblick, as applied to claims 6, 8, 12, 13, and 15 above, and further in view of US Patent No. 6,516,289 to David. Ghiassi, as modified, lacks the glove having a sleeve. However, David teaches a sensing device wherein the sensing device comprises a glove and sleeve combination having a plurality of sensors therein or thereon (see entire document, especially fig. 2; col. 3, lines 4-15 of David).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use a glove and sleeve combination, similar to that of David in place of the glove of Ghiassi as it would merely be the substitution of one known sensor support means for another.

Claims 21 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghiassi, as applied to claims 1, 4, 5, and 7 above, and further in view of US Patent No. 5,529,755 to Higashio et al. Ghiassi, is silent as to the details of the finger measurement unit for sensing a blood glucose measurement. However, Higashio describes a finger measurement unit for sensing a blood glucose measurement comprising a sensor 5 mounted on the support and facing away from the support surface that engages the patient's limb or part thereof when the support receives the limb for measuring glucose (see entire document, especially fig. 1; col. 5, lines 20-59 of Higashio). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to use the finger measurement unit of Higashio as that of Ghiassi, since Ghiassi teaches using a finger measurement unit for sensing a blood glucose measurement, and Higashio describes an appropriate such unit.

Regarding claim 24, a restraint 36 is provided on the support (see entirety of both documents, especially fig. 1 of Ghiassi), wherein the restraint is capable for restraining movement of at least a portion of the patient's limb.

Response to Arguments

Applicant's arguments with respect to claims 1, 4-6, 7, 8, 12-16, 21, 24, and 25 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia C. Mallari whose telephone number is (571) 272-4729. The examiner can normally be reached on Monday-Friday 10:00 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor, II can be reached on (571) 272-4730. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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